



**City of New Fairview
City Council
Special Called Meeting
999 Illinois Lane
Monday, February 19, 2024, at 7:00 pm**

WORK SESSION

1. Call to Order and Determination of Quorum
2. Receive a report and hold a discussion regarding the proposed terms for the Amendment to the Fairview Meadows Development Agreement for Fairview Meadows North.
3. Receive a report and hold a discussion regarding an update from New Fairview Fire Rescue on equipment, vehicles, and operational changes.
4. Adjournment

REGULAR SESSION

1. Call to Order and Determination of Quorum
2. Pledge to the Flags.
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. **Announcements & Special Recognitions:** The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.
4. **City Administrator's Report:** The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.
5. **Public Comment:** The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens with the opportunity to speak, there is a three-minute limit on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. **Consent Agenda:** All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City

Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.

A. Approve the City Council Meeting minutes for February 5, 2024.

7. New Business: All matters listed in New Business will be discussed and considered separately.

A. Receive, consider, and act on an Ordinance approving the rezoning for 1.966 acres, Lot 1, Alpha Business Park located at 116 Graham Road, to change from Planned Development district based on "C" Commercial zoning to Planned Development district based on "C" Commercial zoning to allow Aircraft Parts Manufacturing and Assembly.

B. Receive, consider, and act on a Resolution awarding the roadway reconstruction project for Lange Way, Hilltop Trail, Aydelotte Court, Chisholm Hills Drive and Chisholm Hills Court, to Black Jack Energy Services, LLC for a total of \$1,458,942.55, and establish a not-to-exceed project contingency of \$1,600,00.00.

C. Receive, consider, and act on a Resolution amending the Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City's contract engineer.

D. Receive, consider, and act on a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for concept landscape design, and completion and submission of application for the 2025 TXDOT Green Ribbon Grant Program.

8. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to §551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

A. § 551.071(2): Consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding:

1. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane

B. Section 551.072: to deliberate the purchase, exchange, lease, or value of real property.

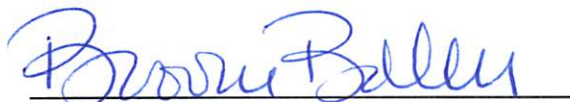
1. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane.

9. Return to Open Session: Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.

10. Mayor & Council Member Announcements: The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

11. Adjournment

I, the undersigned authority, do hereby certify the above notice of the meeting of the City Council of New Fairview, is a true and correct copy of the said notice that I posted on the official posting place at New Fairview City Hall, FM 407, New Fairview, Texas, a place of convenience and readily accessible to the general public at all times, and on its website, said notice being posted this 16th day of February, 2024 at 5:00 PM at least 72 hours proceeding the meeting time.



Brooke Boller, City Secretary

SEAL:



This facility is wheelchair accessible; parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary at City Hall 817-638-5366 or fax 817-638-5369 or by email at citysecretary@newfairview.org for further information.



CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

February 19, 2024

Fairview Meadows Development Update

DESCRIPTION:

Receive a report and hold a discussion regarding the proposed terms for the Amendment to the Fairview Meadows Development Agreement for Fairview Meadows North.

BACKGROUND INFORMATION:

On December 3, 2018 the City Council passed a Development Agreement with Don Allen, Secretary with Lackland Fairview, LLC for the Fairview Meadows Development, under Sec. 212.172 of the Texas Local Government Code. Fairview Meadows is a 634-acre single family residential development with a projected build out of 550 homes over five (5) phases. The development is located outside the city limits but is inside the city's extraterritorial jurisdiction (ETJ). In the Development Agreement, the developer agreed to comply with the City's subdivision regulations and allow the City to perform inspections and issue building permits just as if the development were located within the city. This is a common practice when a developer wants to get the City's consent to the creation of a district in the ETJ to fund the construction of public infrastructure.

The Fairview Meadows developer successfully created the New Fairview Municipal Utility District #1, through the Texas Legislature under Chapter 7987, Special District Local Laws Code. The City adopted a Resolution (2017-R002-085) consenting to the creation of the District and inclusion of the property in the District. No part of the property is located within a water or wastewater certificate of convenience and necessity (CCN), so the developer is providing the water and wastewater service. The design and construction of the water and wastewater infrastructure are to the City's requirements and covered in Article V of the Development Agreement. The design and construction of the roads are also to the City's requirements and are covered in Article VI of the Agreement. Section 6.02 of this Article addresses the paving of Pioneer Road, by the developer along the eastern boundary of the property to the City's collector street standards. The developer is not obligated to pave or make any other improvements to the east/west portion of Pioneer Road, including Pioneer road on the southern boundary of the property.

There was a council discussion on Oct. 12, 2020 regarding extending the MUD boundaries by approximately 313 acres inside the city limits. On November 2, 2020 the City Council did extend the MUD boundaries into the city limits (Resolution 202011-040137). The developer wants to talk with the City Council about the proposed development for the 313 acres that they have identified as "Fairview Meadows North." An amendment to the existing development agreement will be required to address the fact that this section of the development is within the city limits and all city ordinances and regulations will apply. The City can also negotiate some additional amenities, such as a city park and walking trails for this development.

On December 14, 2020 the City entered into an agreement with Pacheco Koch to complete the survey, engineering, and design of pioneer road from FM 407 heading south for approximately 10, 500 linear feet and ending at the paved section of Pioneer Road, traveling east and west. Pacheco Koch the construction plans for Pioneer Road in June 2021 for an estimated cost of \$4,636,646.50. The City is responsible for approximately \$2,110,886 of this road reconstruction cost. The developer has notified the City that they plan to reconstruct their portion of Pioneer road when they construct the roads in Phase five (5) of the development. The developer has expressed an interest in putting into escrow some of the amount equivalent to the Transportation Impact Fees that would be owed as part of the development of the 313 acres inside the city that are identified as "Fairview Meadows North."

The Annexation of the property is addressed in Article IX "Annexation." The City has guaranteed that the property will not be annexed into the city during the term of the agreement. The Exception is in Section 9.02 "Full Purpose Annexation." The City has the right to annex the property upon the earlier of (a) twenty (20) years from the effective date, or (b) the date that construction of Public Infrastructure to serve 100% of the property is completed and bonds have been issued by the developer for reimbursement of all eligible costs relating to the public infrastructure. Section 9.08 "Debt/Contracts" states that the developer shall not issue any bonds, notes, time warrants, or other obligations with a term greater than 30 years from their date of initial issuance. Also, the developer shall not issue obligations to fund or reimburse the cost of constructing public infrastructure for the property in excess of Forty Million Dollars (\$40,000,000.00). The developer shall give notice to the City of its intent to issue bonds and the material elements of a proposed issuance of obligations, including the amount and the length of the debt obligation, prior to issuance of the obligations.

On October 2, 2023, the Fairview Meadows developer had a work session discussion with the City Council on the plans for the development of Fairview Meadows North. There was a discussion about the layout of the development, and the construction and dedication of a park and greenspace to the City. There was also discussion about the need for the developer to raise the bond limit for the construction of public infrastructure from \$40,000,000 to possibly \$90,000,000. The City Council would have to authorize this increase per the terms of the Development Agreement and the council seemed to indicate their willingness to do this. There was also discussion about various funding options being explored to pay for the reconstruction of Pioneer Road.

The developer has been in discussion with city staff on these items and is ready to come back to the City Council to give an update. Specifically, increasing the density of this development from 228 lots to 364 lots. Also, due to changes in the market for home sales, the developer is wanting to discuss the possibility of entering into a Chapter 380 Agreement with the City to get reimbursed for some of the Transportation Impact Fees that it is willing to put into an escrow account to help fund Pioneer Road in the near future.

Staff is looking for consensus of the council on these items so that we can move forward with the terms that will be part of the Amendment to the Development Agreement for the Fairview Meadows North development.

FINANCIAL CONSIDERATION:

None.

RECOMMENDED MOTIONS:

None, discussion only.

ATTACHMENT(S):

1. Fairview Meadows North development density options.

Z:\SHARE\ENGINEERING\PROJECTS\WISSE\FAIRVIEW MEADOWS NORTH\EXHIBITS\20200516 - LAYOUT.DWG 5/17/2023 1:49 PM victor.hankewich



3045 LACKLAND RD.
FT. WORTH, TEXAS 76116
PHONE: (817) 731-7595
FIRM NO. 22775

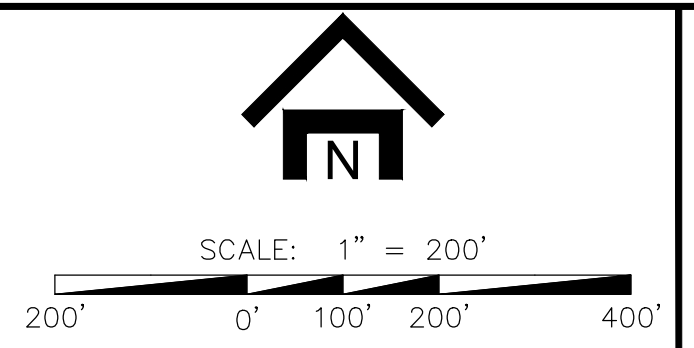
**FAIRVIEW MEADOWS NORTH
NEW FAIRVIEW, TX**

LAYOUT

NO.	DATE	REVISION DESCRIPTION

SHEET NO.
EXH-1

Z:\SHARE\ENGINEERING\PROJECTS\FAIRVIEW MEADOWS NORTH\EXHIBITS\0220821 NEW LAYOUT OPTION\FAIRVIEW MEADOWS NORTH - LAYOUT OPT 8.DWG 9/15/2023 1:00 PM victor@hmr.com



LOT COUNT: 364

FAIRVIEW MEADOWS NORTH
NEW FAIRVIEW, TX

LAYOUT EXHIBIT

NO.	DATE	REVISION DESCRIPTION

PRELIMINARY. THIS DRAWING SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS FINAL CONSTRUCTION DRAWINGS.

SHEET NO.
EXH-1

3045 LACKLAND RD.
FT. WORTH, TEXAS 76116
PHONE: (817) 731-7595
FIRM NO. 22775



CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

February 19, 2024

New Fairview Fire Rescue Operational Update

DESCRIPTION:

Receive a report and hold a discussion regarding an update from New Fairview Fire Rescue on equipment, vehicles, and operational changes.

BACKGROUND INFORMATION:

New Fairview Fire Rescue (NFFR) Chief, Arne Wissann, will give an update on the new equipment recently purchased. He is also looking into new fleet vehicles to replace old fleet vehicles, and new radios as a result of the Wise County upgrade to their emergency communications system. He also wants to discuss an offer made by some council members for the City to pay for the new NFFR logos to be placed on their fleet vehicles.

FINANCIAL CONSIDERATION:

None.

RECOMMENDED MOTIONS:

None, discussion only.

ATTACHMENT(S):

None



**City of New Fairview
City Council
Special Called Meeting
999 Illinois Lane
Monday, February 5, 2024, at 7:00 pm**

**CITY COUNCIL
Mayor John Taylor
Mayor Pro Tem Steven King
Place 1 Councilman Harvey Lynn Burger
Place 2 Councilman Peter Kozlowski
Place 3 Councilwoman Sarah Adams**

Place 5 Councilman Richard Greene

**City Staff
John Cabrales Jr, City Administrator
Brooke Boller, City Secretary
Jerry Drake, City Attorney – Virtual**

WORK SESSION

1. Call to Order and Determination of Quorum (**Work Session called to order by Mayor John Taylor at 7:00 pm; Roll Call with the above-mentioned names.**)
2. Receive a report and hold a discussion regarding an update from New Fairview Fire Rescue on equipment, vehicles, and operational changes.
--Removed by City Administrator John Cabrales
3. Adjournment

REGULAR SESSION

1. Call to Order and Determination of Quorum (**Regular Session called to order by Mayor John Taylor at 7:00 pm; Roll Call with the above-mentioned names.**)
2. Pledge to the Flags.
 - A. United States of America
 - B. Texas Flag Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God, one and indivisible.
3. Announcements & Special Recognitions: The agenda shall provide a time when proclamations, recognitions, general reports, and updates may be presented by the City Council.

4. City Administrator's Report: The City Administrator's Report may provide information on status of current city projects and other projects affecting the City, meetings and actions of the city's boards and commissions, upcoming local community events, including but not limited to departmental operations and capital improvement project status. No action will be taken with respect to this report.

Citizens can now file for a place on the ballot for the General Election for places 1,3 and 5 until 2/16/24.

Parks & Recreation board has a survey open until 3/1/24

5. Public Comment: The City Council invites persons with comments or observations related to city issues, projects, or policies to briefly address the City Council. Anyone wishing to speak should sign in with the City Secretary before the beginning of the City Council Meeting. In order to expedite the flow of business and to provide all citizens with the opportunity to speak, there is a three-minute limit on any person addressing the City Council. State law prohibits the City Council from discussing or taking action on any item not listed on the posted agenda.
6. Consent Agenda: All matters as Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. An item can be removed from the consent agenda by the City Administrator, Mayor, or any member of the City Council and will be considered after approval of the consent agenda.

- A. Approve the City Council Meeting minutes for Jan. 15, 2024.

Motion: Councilman Richard Greene

Second: Councilman Peter Kozlowski

Vote: All in Favor

Result: Council approved the City Council Meeting minutes for February 5, 2024.

7. New Business: All matters listed in New Business will be discussed and considered separately.

- A. Receive, consider, and act on a Resolution approving a regional effort to look for solutions to our water and wastewater needs.

Motion: Councilman Peter Kozlowski

Second: Councilman Richard Greene

Vote: All in Favor

Result: Council approved a Resolution approving a regional effort to look for solutions to our water and wastewater needs and authorize the City Administrator to spend at least \$10,000 to assist with any expenses related thereto.

- B. Discuss, consider, and act on a Resolution calling a general election for the office of City Members Place 1, Place 3 and Place 5 to be held May 4, 2024; authorizing execution of a joint election agreement with the Wise County Elections Administration and Denton County Administration to conduct the election; and provide procedures to conduct the election as well as resolving other matters incident and related thereto.

Motion: Councilman Richard Greene

Second: Councilwoman Sarah Adams

Vote: All in Favor

Result: Council approved a Resolution calling a general election for the City Members Place 1, Place 3 and Place 5 to be held May 4, 2024; authorizing execution of a joint election agreement with the Wise County Elections Administration and Denton County Administration to conduct the election; and provide procedures to conduct the election as well as resolving other matters incident and related thereto.

8. Executive Session: Recess to Executive Session to discuss matters relating to real property pursuant to §551.072, Texas Government Code; deliberation of economic development negotiations pursuant to

§551.087, Texas Government Code; discuss personnel matters pursuant to §551.074, Texas Government Code; discuss IT network or critical infrastructure security pursuant to §551.089, Texas Government Code; and to consult with the City Attorney pursuant to §551.071, Texas Government Code. The Council may go into closed session at any time when permitted by Chapter 551, Texas Government Code or Chapter 418, Texas Tax Code. Before going into closed session, a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code authorizing the closed session.

- A. § 551.071(2): Consultation with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act regarding:
 - 2. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane -- **TABLED**
- B. Section 551.072: to deliberate the purchase, exchange, lease, or value of real property.
 - 1. Possible property acquisition that is east of South County Line, West of FM 407 and North of Dove Hollow Lane. --**TABLED**

- 9. Return to Open Session: Discuss and take appropriate action, if any, resulting from the discussions conducted in Executive Session.
- 10. Mayor & Council Member Announcements: The City Council may hear or make reports of community interest provided no action is taken or discussed. Community interest items may include information regarding upcoming schedules of events, honorary recognitions, and announcements involving imminent public health and safety threats to the city. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

- 11. Adjournment
 - Motion: Councilwoman Sarah Adams**
 - Second: Councilman Richard Greene**
 - Vote: All in Favor**
 - Result: Regular session was adjourned at 7:49pm.**

MINUTES APPROVED ON THIS, THE 19TH DAY OF FEBRUARY 2024

John Taylor, Mayor

Brooke Boller, City Secretary



**CITY COUNCIL
AGENDA MEMO**

Prepared By: Stephen A. Cook, AICP Senior Planner

February 19, 2024

Request for Approval for Rezoning 116 Graham Road

DESCRIPTION:

Receive, consider, and act on an Ordinance approving the rezoning for 1.966 acres, Lot 1, Alpha Business Park located at 116 Graham Road, to change from Planned Development district based on “C” Commercial zoning to Planned Development district based on “C” Commercial zoning to allow Aircraft Parts Manufacturing and Assembly.

BACKGROUND INFORMATION:

116 Graham Road was zoned Planned Development (PD) based on “C” Commercial zoning (PD/C) in 2016 as approved by the City Council at that time. In this location a commercial business has been operating assembling goods for sale. The PD/C zoning allows all uses currently in the New Fairview zoning district “C” with some modifications to the site itself through specialized landscaping and fencing requirements. All building setbacks, land uses, and design standards are the same as the straight “C” zoning district.

Aviation Products, an aircraft part assembler and manufacturer currently operates in the City of Fort Worth and has been in its current location for several decades. The ownership of the business would like to purchase 116 Graham Road to move their operations from the City of Fort Worth to New Fairview. They utilize specific adhesives in their process to assemble the aircraft parts and then ship their products to their aviation customers. Their largest client is Bell Helicopter in Fort Worth. The company also does specialized shipping services. The process currently utilizes two heat presses to conduct their work.

The North American Industry Classification System (NAICS) currently classifies the work they produce as Other Aircraft Parts Assembly and Manufacturing. This definition is not found within the “C” commercial zoning district as a permitted use. It is the request of this zoning change to modify the existing zoning district to continue to allow all “C” commercial land uses, with the addition of a definition of Other Aircraft Parts Manufacturing and Assembly, and allow this use in this location at 116 Graham Road. The new definition to be included in the ordinance is as

follows: “Establishments primarily engaged in manufacturing aircraft parts or auxiliary equipment (except engines and aircraft fluid power subassemblies)”.

The applicant has stated to staff that they do not intend to increase the size of the building at this time or to bring tractor trailers for shipments. They utilize smaller vehicles for shipping and have the appropriate number of persons and parking appropriate for the current site.

The operation that they currently conduct is not a heavy industrial operation with no noticeable noise or odor output from outside the facility. Their current operation is located in Fort Worth with other smaller industrial businesses and located immediately across the street from a church and several residential homes.

Keeping the zoning “PD/C” with the singular addition of the appropriate aircraft parts assembly and manufacturing and not moving to a “M” Manufacturing zoning doesn’t introduce additional land uses which might not be compatible in this location in the future.

If the new property owner / user wishes to expand the building, then a site plan will be required to expand the building, ensuring that all conditions on the site are brought up to code.

Based on the information provided to the City, staff is recommending approval of the change in zoning.

The Planning and Zoning Commission held a public hearing on February 12, 2024 and voted to recommend approval of the rezoning ordinance.

FINANCIAL CONSIDERATION:

None

RECOMMENDED MOTIONS FOR CITY COUNCIL:

I move to **Approve/Deny/Approve with Conditions**, an Ordinance approving the rezoning for 1.966 acres, Lot 1, Alpha Business Park located at 116 Graham Road, to change from Planned Development district based on “C” Commercial zoning to Planned Development district based on “C” Commercial zoning to allow Aircraft Parts Manufacturing and Assembly.

ATTACHMENT(S):

1. Ordinance 202402-02-106



ORDINANCE NO. 202402-02-106

AN ORDINANCE OF THE CITY OF NEW FAIRVIEW, TEXAS, AMENDING THE ZONING MAP OF THE CITY OF NEW FAIRVIEW ADOPTED BY ORDINANCE NO. 2016-04-180 BY CHANGING THE ZONING DISTRICT USES FROM PLANNED DEVELOPMENT BASED ON "C" COMMERCIAL TO INCLUDE AIRCRAFT PARTS MANUFACTURING AND ASSEMBLY LOCATED ON 1.966 ACRES WITHIN LOT 1, ALPHA BUSINESS COMPLEX 116 GRAHAM ROAD, NEW FAIRVIEW, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on February 12, 2024, in conjunction with a rezoning case for to allow aircraft parts manufacturing and assembly located within the PD/C Zoning District, and has rendered a recommendation to the City Council with respect to this case; and,

WHEREAS, the City Council has conducted a public hearing on February 19, 2024, and has considered the recommendation of the Planning and Zoning Commission, and has determined that the proposed change is in the best interest of the general welfare of the City of New Fairview and that any foreseeable negative impacts of the proposed use have been mitigated through design restrictions or other set condition.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS, THAT:

SECTION 1

That the zoning for Lot 1, Alpha Business Park, 116 Graham Road (Parcel), as described herein, is zoned Planned Development based on the "C" Commercial zoning district.

- A. Development of the Parcel shall be in accordance with the C Commercial zoning district regulations.
- B. The use, Aircraft Parts Manufacturing and Assembly as defined as establishments primarily engaged in manufacturing aircraft parts or auxiliary equipment (except engines and aircraft fluid power subassemblies) shall be a permitted use within this district.
- C. The following conditions shall be part of this ordinance:

- a. A solid wood screening fence shall be constructed along the east property line of Lot 1. The solid wood screening fence shall be a minimum of six (6) feet, and shall not exceed a height of eight (8) feet. The solid wood screening fence shall have metal support posts in concrete.
- b. All trees along FM 407 (Illinois Street) shall be maintained and additional landscaping shrubs shall be planted six (6) feet on center along the south property line.
- c. Outside storage shall be allowed on the property with the following stipulations:
 - i. Outside storage within twenty (20) feet of the east property line shall not exceed the height of the solid wood screening fence.
 - ii. Outside storage more than twenty (20) feet from the east property line shall not exceed a height of ten (10) feet. No outside storage on the property shall exceed a height of ten (10) feet.

SECTION 2

That this Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance.

SECTION 3

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 4

All rights or remedies of the City of New Fairview, Texas, are expressly saved as to any and all violations of the city's zoning ordinance, as amended, or any other ordinance affecting zoning and land use thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 5

If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portion of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 6

The City Secretary of the City of New Fairview, Texas, is hereby directed to publish in the official newspaper of the City of New Fairview, the caption, penalty clause, publication clause, and effective date clause of this Ordinance for two (2) days as required by section 52.012 of the Texas Local Government Code.

SECTION 7

This Ordinance shall take effect from and after its date of passage and publication in accordance with law, and it is so ordained.

PASSED AND APPROVED ON THIS 19th DAY OF FEBRUARY, 2024.

John Taylor, Mayor

ATTEST:

Brook Boller, City Secretary



**CITY COUNCIL
AGENDA MEMO**

Prepared By: John Cabrales Jr, City Administrator

February 19, 2024

Bid Award for Street Improvements in Chisholm Hills Subdivision

DESCRIPTION:

Receive, consider, and act on a Resolution awarding the roadway reconstruction project for Lange Way, Hilltop Trail, Aydelotte Court, Chisholm Hills Drive and Chisholm Hills Court, to Black Jack Energy Services, LLC for a total of \$1,458,942.55, and establish a not-to-exceed project contingency of \$1,600,00.00.

BACKGROUND INFORMATION:

The City Council has directed staff to focus on maintenance and reconstruction of our public infrastructure including our roads. On May 15, 2023, the City Council had a work session to discuss options for funding the needed reconstruction and drainage improvement of several city roads. Staff was directed to proceed with the issuance of \$3.5 million in Certificates of Obligation for the use of reconstructing all the roads listed in Priority 1, 2, and 3 from staff's recommendation for a total of \$2,334,350, and for the reconstruction of Graham Road at approximately \$792,600.

On July 17, 2023 the City Council approved a Resolution authorizing the City Administrator to enter into a professional services agreement with Pacheco Koch Consulting Engineers, LLC, a wholly owned subsidiary of Westwood Professional Services Inc., for the survey and engineering for roadway and drainage reconstruction of certain roads in the Chisholm Hills subdivision (Phase II), in an amount not to exceed \$190,000.

In October 2023, the Mayor, Mayor Pro Tem, and staff met with our Senior Engineer, Ryley Paroulek, to review the 60% plans of the Chisholm Hills Roadway Improvements Phase II. It was decided to break out most of the drainage improvements for this project in an attempt to get some cost savings. On December 4, 2024, the City Council awarded a drainage improvement project for the installation of drainage culverts and headwalls along Lange Way, Hilltop Trail, Aydelotte Court, and Chisholm Hills Drive, to 3H Concrete, Inc. This is for the Chisholm Hills Roadway Improvements Phase II project, and the project was bid according to state law requirements.

The City posted all legally required notices for the soliciting of sealed bids for the Chisholm Hills Phase II Roadway Improvements. There were three bids received and on February 16, 2024 the bids were opened and are listed in the Financial Consideration Section below.

Staff recommend approval of the Resolution.

FINANCIAL CONSIDERATION:

The City obtained the following bids:

- | | |
|-----------------------------------|----------------|
| ● Black Jack Energy Services, LLC | \$1,458,942.55 |
| ● JR West Texas Concrete LLC | \$1,687,907.59 |
| ● SPI Asphalt | \$2,236,652.00 |

On August 7, 2023 the City Council approved an Ordinance related to the issuance and sale of “City of New Fairview, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2023”, including the adoption of an ordinance authorizing the issuance of such certificates of obligation for \$3.5 million. The funds from this 2023 CO issuance will be used to pay for the expense of this contract.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution awarding the roadway reconstruction project for Lange Way, Hilltop Trail, Aydelotte Court, Chisholm Hills Drive and Chisholm Hills Court, to Black Jack Energy Services, LLC for a total of \$1,458,942.55, and establish a not-to-exceed project contingency of \$1,600,00.00.

ATTACHMENT(S):

1. Resolution 202402-03-115
2. Bids



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202402-03-115**

A RESOLUTION AWARDING A ROADWAY RECONSTRUCTION CONTRACT FOR LANGE WAY, HILLTOP TRAIL, AYDELOTTE COURT, CHISHOLM HILLS DRIVE, AND CHISHOLM HILLS COURT, TO BLACK JACK ENERGY SERVICES, LLC FOR A TOTAL OF \$1,458,942.55 AND ESTABLISH A NOT-TO-EXCEED PROJECT CONTINGENCY OF \$1,600,000.00, AND FURTHER AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE THE NECESSARY CONTRACT DOCUMENTS FOR THE SAME.

WHEREAS, the City Council on May 15, 2023 had a work session to discuss options for funding the needed reconstruction and drainage improvement of several city roads in the Chisholm Hills subdivision; and

WHEREAS, the City Council on July 17, 2023 approved a Resolution authorizing the City Administrator to enter into a professional services agreement with Pacheco Koch Consulting Engineers, LLC, a wholly owned subsidiary of Westwood Professional Services Inc., for the survey and engineering for roadway and drainage reconstruction of certain roads in the Chisholm Hills subdivision, in an amount not to exceed \$190,000; and

WHEREAS, the City Council on August 7, 2023 approved an Ordinance related to the issuance and sale of “City of New Fairview, Texas, Combination Tax and Revenue Certificates of Obligation (CO), Series 2023”, including the adoption of an ordinance authorizing the issuance of such certificates of obligation for \$3.5 million, and the funds from this 2023 CO issuance will be used to pay for the expense of the reconstruction and drainage improvement of certain roads in the Chisholm Hills subdivision; and

WHEREAS, the City published a notice to bidders, as required by state law, that the City would receive sealed bids for the roadway reconstruction project for Lange Way, Hilltop Trail, Aydelotte Court, Chisholm Hills Drive and Chisholm Hills Court, collectively called the Chisholm Hills Phase II Roadway Improvements. The bids were received until 11:00 AM Friday, February 16, 2024, and they were opened and read on the same day in the City Council Chambers.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference as part of this Resolution.

SECTION 2. The City Council hereby awards a roadway reconstruction contract for Lange Way, Hilltop Trail, Aydelotte Court, Chisholm Hills Drive and Chisholm Hills Court, to Black Jack Energy Services, LLC for a total of \$1,458,942.55, and establish a not-to-exceed project contingency of \$1,600,00.00.

SECTION 3. That the City Administrator is hereby authorized to execute the necessary contract documents.

SECTION 4. If any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determined that it would have adopted this Resolution without the invalid provision.

SECTION 5. This Resolution shall take effect immediately upon its passage, as provided by law.

PRESENTED AND PASSED on this 19th day of February, 2024, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

BROOKE BOLLER, City Secretary

CITY OF NEW FAIRVIEW

BID OPENING CONVENIENCE PAGE

The City of New Fairview is soliciting sealed bids for the asphalt pavement reconstruction and repair in the Chisholm Hills Phase 2 Roadway Improvements.

Designate on the front, lower left hand corner of your response envelope, the following:

Subject: Chisholm Hills Phase 2- Roadway Improvements

Bid Closing Time:

Friday, February 9, 2024 at 10:00 A.M.

For convenience at Bid Opening, enter bid on this cover page and include in sealed response envelope. (Do not place quoted prices on the outside of the envelope):

Total Cost: \$ 1,458,942.55

Black Jack Energy Services, LLC

Company Name

1021 East Reno Rd

Address

Azle Texas 76020

City, State, and Zip Code

254-396-5611

Phone

By:  **Cliff Price**
Authorized Agent

Section 00 42 00

BID PROPOSAL

TO:

City of New Fairview
c/o City Secretary
999 Illinois Lane,
New Fairview, Texas 76078

Date: 2/16/2024

Name of Bidder: JR West Texas Concrete LLC Phone: 979-575-9209

Street Address: PO BOX 230

City and State: RICE TX Zip: 75155

The undersigned BIDDER, having examined the site, Plans, Specifications and other documents, HEREBY PROPOSES to furnish all labor, materials, tools, supplies, and necessary equipment to construct, complete in place and ready for use:

Chisholm Hills Phase 2- Roadway Improvements

For the Total Price of:

In Words: one million six hundred eighty seven thousand nine hundred seven Dollars

and fifty nine Cents

In Figures: \$ 1,687,907.59

Maximum contract time required by the Contractor for completion of these improvements, beginning on the date specified in the Notice to Proceed, is 150 Calendar days.

Receipt is acknowledged of the following Addenda:

Addendum No. 1 ACKNOWLEDGED

Addendum No. 2 _____

Addendum No. 3 _____

CITY OF NEW FAIRVIEW

BID OPENING CONVENIENCE PAGE

The City of New Fairview is soliciting sealed bids for the asphalt pavement reconstruction and repair in the Chisholm Hills Phase 2 Roadway Improvements.

Designate on the front, lower left hand corner of your response envelope, the following:

Subject: Chisholm Hills Phase 2- Roadway Improvements

Bid Closing Time:

Friday, February 16, 2024 at 10:00 A.M.

For convenience at Bid Opening, enter bid on this cover page and include in sealed response envelope. (Do not place quoted prices on the outside of the envelope):

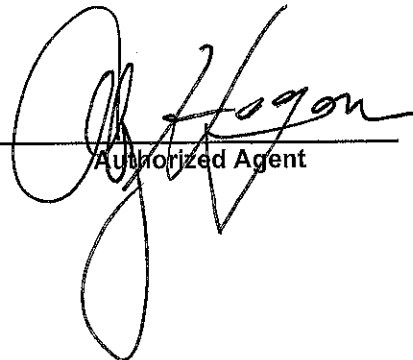
Total Cost: \$ 2,236,692.00

SPI Asphalt
Company Name

1001 CLIFF DR
Address

Graham, TX 76450
City, State, and Zip Code

940-230-6575
Phone

By: 
Authorized Agent



AGENDA ITEM: 7C

CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

February 19, 2024

Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City's contract engineer

DESCRIPTION:

Receive, consider, and act on a Resolution amending the Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City's contract engineer.

BACKGROUND INFORMATION:

The City entered into a Professional Services Agreement with Pacheco Koch Engineers, Inc for engineering services as the City's contract engineer on April 19, 2011. Since that time, the City has used Pacheco Koch for various projects that require engineering services, and there have not been any issues.

Pacheco Koch was acquired by Westwood Professional Services Inc. in December of 2021, but continued operating as Pacheco Koch. On January 10, 2024, Westwood announced that Pacheco Koch has completely transitioned to Westwood. The team will continue to provide full-service engineering, surveying, planning, and landscape architecture services to both public infrastructure and private development clients throughout Texas. The team will continue to operate from their Dallas, Fort Worth, Houston, Austin, and Celina offices. Also, the fee schedule for public infrastructure services for Westwood was recently updated (see attached Exhibit B of the Agreement).

With the change of ownership and new fee schedule, the City needs to enter into a new Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City's contract engineer.

The Agreement includes a Scope of Services (Exhibit A of the Agreement) that provides for miscellaneous civil engineering consultation services including attending council meetings, meeting with outside agencies, assisting with capital improvement planning and construction projects, review of subdivisions and plat, mapping, and other services as requested by the Client.

Miscellaneous Services and General Consultation

The services to be provided by Westwood will be for various engineering, surveying and/or landscape architecture services as may be needed by the City including the following:

- Attending Council Meetings as City Engineer as required.
- Meetings with outside agencies on behalf of the City as needed.
- General engineering consultation with City Staff.

Some typical examples of additional miscellaneous assignments that could be performed under the Agreement are as follows:

- Capital improvements planning.
- Design of capital improvements.
- Review of subdivision plats and plans.
- Studies and reports on various water, sewer, street, and drainage issues.
- City mapping.
- Miscellaneous land surveying assignments.
- Other engineering, surveying and/or landscape architecture assignments as requested by the City and accepted by Westwood.

Staff recommend approval of the Resolution.

FINANCIAL CONSIDERATION:

For all professional services included in the Scope of Services, Westwood shall be compensated on an hourly, time and materials basis as summarized below. The total lump sum fee shall be considered full compensation for the services, including all labor materials, supplies, and equipment necessary to deliver the services.

FEE SCHEDULE FOR PUBLIC INFRASTRUCTURE SERVICES

2024 – South

The following is the fee schedule for all work performed under an hourly agreement.

Classification	Hourly Rate
Survey Tech I – Survey Tech VI.....	\$125.00 – \$205.00
Survey Field I – Survey Field VII.....	\$70.00 – \$160.00
Graduate Surveyor I – Graduate Surveyor III	\$145.00 – \$175.00
Surveyor I – Surveyor VI.....	\$190.00 – \$265.00
Remote Sensing Field Tech I – Remote Sensing Field Tech VIII.....	\$105.00 – \$185.00 Remote
Sensing Field Manager	\$200.00
Remote Sensing Tech I – Remote Sensing Tech V	\$130.00 – \$185.00 Remote
Sensing Manager.....	\$215.00
Engineering Technician I – Engineering Tech VII.....	\$125.00 – \$200.00
Graduate Engineer I – Graduate Engineer IV	\$145.00 – \$185.00
Engineer I – Engineer VII.....	\$190.00 – \$270.00
Dust Monitor	\$75.00
Construction Observer I – Construction Observer V	\$115.00 – \$175.00

Environmental Scientist I – Environmental Scientist VIII	\$120.00 – \$240.00
Environmental Field I – Environmental Field III.....	\$80.00 – \$115.00
GIS I – GIS VIII	\$100.00 – \$205.00
Graduate Landscape Architect I – Graduate Landscape Architect III.....	\$120.00 – \$150.00
Landscape Architect I – Landscape Architect VI	\$155.00 – \$240.00
Project Processor I – Project Processor II.....	\$85.00 – \$95.00
Project Coordinator I – Project Coordinator II	\$130.00 – \$140.00
Senior Project Coordinator I – Senior Project Coordinator II	\$155.00 – \$175.00
Admin I – Admin V.....	\$85.00 – \$135.00
Intern I – Intern III	\$75.00 – \$105.00
Assistant Project Manager I – Assistant Project Manager III	\$180.00 – \$205.00
Project Manager I – Project Manager VII.....	\$195.00 – \$290.00
Expert Witness – Court Appearance/Deposition.....	2 x rate

Westwood Current™ (Geospatial Project Management Tool) Setup and Licensing \$600.00+
Specialized Geospatial Equipment – Per Day Use \$200.00 – \$3,000.00

Charges for Other Direct Costs, Outside Services, and facilities furnished by Westwood are sis of actual cost, plus fifteen (15) percent.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution amending the Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City’s contract engineer.

ATTACHMENT(S):

1. 2024 Westwood South Region Rate Sheet
2. Resolution 202402-02-114



FEE SCHEDULE FOR PUBLIC INFRASTRUCTURE SERVICES
2024 – South

The following is the fee schedule for all work performed under an hourly agreement.

Classification	Hourly Rate
Survey Tech I – Survey Tech VI.....	\$125.00 – \$205.00
Survey Field I – Survey Field VII.....	\$70.00 – \$160.00
Graduate Surveyor I – Graduate Surveyor III	\$145.00 – \$175.00
Surveyor I – Surveyor VI.....	\$190.00 – \$265.00
Remote Sensing Field Tech I – Remote Sensing Field Tech VIII.....	\$105.00 – \$185.00
Remote Sensing Field Manager	\$200.00
Remote Sensing Tech I – Remote Sensing Tech V	\$130.00 – \$185.00
Remote Sensing Manager.....	\$215.00
Engineering Technician I – Engineering Tech VII.....	\$125.00 – \$200.00
Graduate Engineer I – Graduate Engineer IV	\$145.00 – \$185.00
Engineer I – Engineer VII.....	\$190.00 – \$270.00
Dust Monitor	\$75.00
Construction Observer I – Construction Observer V	\$115.00 – \$175.00
Environmental Scientist I – Environmental Scientist VIII	\$120.00 – \$240.00
Environmental Field I – Environmental Field III.....	\$80.00 – \$115.00
GIS I – GIS VIII	\$100.00 – \$205.00
Graduate Landscape Architect I – Graduate Landscape Architect III.....	\$120.00 – \$150.00
Landscape Architect I – Landscape Architect VI	\$155.00 – \$240.00
Project Processor I – Project Processor II.....	\$85.00 – \$95.00
Project Coordinator I – Project Coordinator II	\$130.00 – \$140.00
Senior Project Coordinator I – Senior Project Coordinator II	\$155.00 – \$175.00
Admin I – Admin V.....	\$85.00 – \$135.00
Intern I – Intern III	\$75.00 – \$105.00
Assistant Project Manager I – Assistant Project Manager III	\$180.00 – \$205.00
Project Manager I – Project Manager VII.....	\$ 195.00 – \$290.00
Expert Witness – Court Appearance/Deposition.....	2 x rate
Westwood Current™ (Geospatial Project Management Tool) Setup and Licensing	\$600.00+
Specialized Geospatial Equipment – Per Day Use	\$200.00 – \$3,000.00

ENGINEER II: \$200

Charges for Other Direct Costs, Outside Services, and facilities furnished by Westwood are computed on the basis of actual cost plus 15 percent.



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202402-02-114**

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WESTWOOD PROFESSIONAL SERVICES INC FOR ENGINEERING SERVICES AS THE CITY’S CONTRACT ENGINEER.

WHEREAS, the City of New Fairview, Texas is a Type A General Law Municipality located in Wise and Denton County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to enabling legislation of the State of Texas; and

WHEREAS, the City entered into a Professional Services Agreement with Pacheco Koch Engineers, Inc for engineering services as the City’s contract engineer on April 19, 2011, and since that time, the City has used Pacheco Koch for various projects that require engineering services, and there have not been any issues; and

WHEREAS, Pacheco Koch was acquired by Westwood Professional Services Inc. in December of 2021, but continued operating as Pacheco Koch, and on January 10, 2024, Westwood announced that Pacheco Koch has completely transitioned to Westwood; and

WHEREAS, with the change of ownership and a new fee schedule, the City wishes to enter into a new Professional Services Agreement with Westwood Professional Services Inc., for engineering services as the City’s contract engineer.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference as part of this Resolution.

SECTION 2. The City Council approves a Professional Services Agreement (Exhibit ‘A’) with Westwood Professional Services Inc. for engineering services as the City’s contract engineer.

SECTION 3. The City Council does authorize the City Administrator to direct and work with Westwood Professional Services Inc. to prepare and execute the necessary documents.

SECTION 4. If any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determined that it would have adopted this Resolution without the invalid provision.

SECTION 5. This Resolution shall take effect immediately upon its passage, as provided by law.

PRESENTED AND PASSED on this 19th day of February, 2024, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

BROOKE BOLLER, City Secretary



CITY COUNCIL AGENDA MEMO

Prepared By: John Cabrales Jr, City Administrator

February 19, 2024

Professional Services Agreement with Westwood Professional Services Inc., for the preparation and submission of a TxDOT Green Ribbon Program application

DESCRIPTION:

Receive, consider, and act on a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for concept landscape design, and completion and submission of application for the 2025 TXDOT Green Ribbon Grant Program.

BACKGROUND INFORMATION:

TxDOT recognizes the need for developing highways with acceptable visual quality and has developed several proactive programs that encourage and assist the development of such transportation corridors. These include the Transportation Enhancements Program, Transportation Alternatives Program, Cost Share Program, the Governor's Community Achievement Awards, Green Ribbon Landscape Improvement Program, and Landscape Partnership Program. City staff have been discussing the Governor's Community Achievement Award and the Green Ribbon Program with the Keep New Fairview Beautiful Committee. The purpose of the TXDOT Green Ribbon Program is to improve the visual character of highway corridors and minimize the negative impacts of air pollution through planting of trees and shrubs.

Since 2001, the Texas Legislature has added a rider to the Texas Department of Transportation's (TxDOT) appropriation legislation requiring TxDOT to expand the concepts of the Houston District's Green Ribbon Program (developed in the 1990s), allocating funding for landscape projects to Districts with non-attainment and near non-attainment air quality. Statewide, TxDOT is accomplishing the requirements of the rider by allocating funds for Districts with non-attainment and near nonattainment counties to install and establish trees, shrubs, and groundcover on the state highway system to help mitigate the effects of air pollution. This allocation is calculated at 0.5% of the total contract amount of highway improvements let in the past fiscal year within non-attainment and near nonattainment counties.

The Green Ribbon Program provides for landscape improvement work that is structured to provide appropriate planting installation, soil preparation, and irrigation activities at locations which are suitable and approved by TxDOT. Projects must meet TxDOT design standards and must ensure appropriate safety, construction, establishment, and maintenance considerations. This program calls for the use of drought tolerant, native, and adaptive plant materials. Soil preparation to improve the fertility, structure, and drainage of planting areas is permitted. Irrigation systems will be used that take into consideration the highest water conservation and efficiency possible on each project, meaning drip irrigation and bubblers, no spray irrigation is allowed. Green Ribbon funds only allow for plant material, irrigation, up to 12 months

of maintenance and mow strips. No other hardscape or amenities can be paid for with these funds, although the City may add them to a project and fund them directly.

In order to qualify, cities must attend a mandatory TxDOT workshop, which the City of New Fairview did attend. Cities must be able to provide plans to the TxDOT Area Office at least six months prior to letting in FY25 (September 2024 thru August 2025). Plans must meet all state requirements, and the project must be within the state right-of-way. Cities will be required to sign an Advanced Funding Agreement (AFA) for potential cost overruns. Green Ribbon funds are fixed dollar amounts. Cities will be responsible for the long-term maintenance of the project and therefore required to sign a Landscape Maintenance Agreement. If no agreement is signed, the project will not let. Those cities that have not received allocations in the recent past (last 2 years) may be given more consideration for funding than those that have had recent projects. TxDOT wants to spread the funding as equitably as possible throughout the District.

Project awards will be limited to a maximum of \$400,000 (including mobilization, barricades, etc.). No match is required for Green Ribbon funding; however, if there is an overrun, the City must pay 100% for overages and any revisions to plan sheets, if needed. Projects using Green Ribbon funds must be let within the fiscal year allocated (FY2025: Sept. 2024 – Aug. 2025), or the funds are lost to TxDOT. Project lettings may be local or state, and local let projects will be determined on a case-by-case occurrence based on experience and TxDOT Area Office input. If locally let, the city must be Local Government Project Procedures Certified, or it can be the consultant working on the project. Applications must be received by TxDOT by March 29, 2024 to be considered.

At the TXDOT mandatory Green Ribbon Project information session in January, staff connected with Dorothy Witmeyer, the Senior Project Manager for Westwood, the firm who designed and executed the Green Ribbon Hwy 156 project in the City of Justin. Westwood has extensive experience in streetscape design and transportation enhancement projects, including residential streets, complex urban thoroughfares and large scale corridors. Based on Ms. Westwood's valuable experience with the TXDOT Green Ribbon Program, staff requests consideration for the expense of contracting with this consultant for landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program. This design would be for southbound frontage road of Hwy 287 at FM 407 bridge. This is an area that suffers constant littering and illegal dumping and was the location of the first Keep New Fairview Beautiful (KNFB) Clean Up event last year. Staff have had discussion with the KNFB Committee regarding beautification plans for this location that would assist with the decrease in littering and illegal dumping.

Staff recommend approval of the Resolution.

FINANCIAL CONSIDERATION:

Consulting fees by Westwood would be approximately \$6,800 which includes the scope of work in Exhibit 'A' to the Resolution. If construction plans are desired, this would be a separate cost and can be decided at a later date. In anticipation of an application for a Governor's Community Achievement Award or Green Ribbon Program, staff placed \$12,000 in the Code Enforcement/Health Department Budget earmarked for these expenses.

RECOMMENDED MOTIONS:

I move to **Approve/Deny** a Resolution approving a Professional Services Agreement with Westwood Professional Services Inc., for concept landscape design, and completion and submission of application for the 2025 TXDOT Green Ribbon Grant Program, as agreed to in final form by the City Attorney.

ATTACHMENT(S):

1. Fort Worth District Green Ribbon Workshop Presentation FY 2025
2. Westwood Green Ribbon Experience
3. Resolution 202402-04-116



FORT WORTH DISTRICT GREEN RIBBON PROGRAM WORKSHOP FY2025

AGENDA



Introductions



Green Ribbon Program Overview



Fort Worth District Guidelines



Questions and Answers

GREEN RIBBON PROGRAM OVERVIEW



GREEN RIBBON PROGRAM OVERVIEW

- Since 2001, the Texas Legislature has added a rider to the Texas Department of Transportation's appropriation legislation requiring TxDOT to expand the concepts of the Houston District's Green Ribbon Project (developed in the 1990s), allocating funding for landscape projects to Districts with non-attainment and near non-attainment air quality.
- Statewide, TxDOT is accomplishing the requirements of the rider by allocating funds for Districts with non-attainment and near non-attainment counties to install and establish trees, shrubs and groundcover on the state highway system to help mitigate the effects of air pollution.
- This allocation is calculated at 0.5% of the total contract amount of highway improvements let in the past fiscal year within non-attainment and near non-attainment counties.
- Projects using Green Ribbon funds **MUST** be let within the fiscal year allocated (FY2025: Sept. 2024 – Aug. 2025), or the funds are lost to the District.

GREEN RIBBON PROGRAM OVERVIEW

- **Design Standards:** Landscape improvement work will be structured to provide appropriate planting installation, soil preparation and irrigation activities at locations which are suitable and approved by the District. Projects must meet design standards and each District must ensure appropriate safety, construction, establishment and maintenance considerations are applied.
- This program calls for the use of drought tolerant, native and adaptive plant materials. Soil preparation to improve the fertility, structure, and drainage of planting areas is permitted. Irrigation systems will be used that take into consideration the highest water conservation and efficiency possible on each project, meaning drip irrigation and bubblers, no spray irrigation is allowed. Under Item 193, up to 12 months of Contractor plant establishment and maintenance are available. Please discuss potential pros and cons with TxDOT staff before adding to your plans. Seeding, sodding, or other erosion control measures are not allowed under the Green Ribbon Program. Aesthetic treatments such as special finishes and decorative designs on structural surfaces or other hardscape elements and amenities are not funded under this program. Although, these items may be included within a project at the Local Government/Agency's expense.

FORT WORTH DISTRICT GUIDELINES



FORT WORTH DISTRICT GUIDELINES

- **Mandatory representation at this Workshop.**
- **Local Government/Agency must be able to provide plans to the TxDOT Area Office (a minimum) of six months prior to letting in FY25 (September 2024 thru August 2025). Consider a delayed start in your plans to hit appropriate planting times. Maximum delayed start is six months. Plans must meet all state requirements, as all Green Ribbon projects must be within the state right-of-way.**
- **Local Government/Agency will be required to sign an Advanced Funding Agreement (AFA) for potential cost overruns. Green Ribbon funds are fixed dollar amounts.**
- **Local Government/Agency will be responsible for the long term maintenance of the project and therefore required to sign a Landscape Maintenance Agreement. If no agreement is signed, the project will not let.**
- **Those that have not received allocations in the recent past (last 2 years) may be given more consideration for funding than those that have had recent projects. We want to spread the funding as equitably as possible throughout the District.**

FORT WORTH DISTRICT GUIDELINES

- Projects awards will be limited to a maximum of \$400,000 (including mobilization, barricades, etc.). These are typically stand alone projects, but there is potential to incorporate the project within a current FY25 roadway project. This would allow more bang for your buck. Area Offices will be your best contacts for upcoming roadway projects letting in the near future.
- **Applications must be received via email (only) by March 29, 2024 at 5pm to be considered.** Please make sure you receive an email response stating we have received your submission. Submissions MUST includes:
 - **completed application form (with narrative)**
 - **location map**
 - **schematic plan**
 - **preliminary budget**
 - **preliminary project schedule**
- Applicants must work closely with the Area Offices to be sure proposed locations are appropriate. The designers (local governments or consultants) need to be aware of visibility issues, clear zones, utilities, future roadway projects, etc. Please refer to the reference links on the handout.

FORT WORTH DISTRICT GUIDELINES

- Irrigation is limited to tree bubblers and drip irrigation for shrubs and groundcover. No spray (turf) irrigation will be allowed within the right-of-way.
- Lettings may be Local or State. Local let projects will be determined on a case by case occurrence based on experience and Area Office input.

PROJECT ELIGIBILITY

- **Projects must be on the State right-of-way.**
- **Green Ribbon funds only allow for plant material, irrigation, up to 12 months of maintenance and mow strips. No other hardscape or amenities can be paid for with these funds, although the City may add them to a project and fund them directly.**
- **Local Government/Agency must provide plans that meet TxDOT design criteria.**
- **Provide a preliminary budget and schedule for your project with your application. No match is required for Green Ribbon funding; however, if there is an overrun, the City must pay 100% for bid item overages and any revisions to plan sheets, if needed.**
- **If locally let, project applicant must be Local Government Project Procedures (LGPP) Certified (either yourself or consultant working on project).**
- **Local Government/Agency must be able to execute an agreement with TxDOT quickly (generally less than two months).**

- **Roadway Design Manual**

<http://onlinemanuals.txdot.gov/txdotmanuals/rdw/index.htm>

- **Landscape and Aesthetics Design Manual**

<http://onlinemanuals.txdot.gov/txdotmanuals/lad/index.htm>

- **Local Government Projects Policy Manual**

<http://onlinemanuals.txdot.gov/txdotmanuals/lgp/index.htm>

- **Local Government Project Management Guide**

<http://ftp.dot.state.tx.us/pub/txdot/lgp/procedures/guide.pdf>

APPLICATION SUBMISSION & CONTACT INFORMATION

Applications must be received via email by **March 29, 2024 at 5pm** to be considered. Include completed application form (with narrative), location map, preliminary budget, schematic plan, and a preliminary project schedule with your submission. Please make sure that you get a response that the files have been received. Email applications to: Erica.Swenson@txdot.gov

- Contact Information:

Erica Swenson
District Vegetation Specialist
Fort Worth District
Texas Department of Transportation
Erica.Swenson@txdot.gov

QUESTIONS AND ANSWERS



Green Ribbon

Westwood has extensive experience in streetscape design and transportation enhancement projects, including residential streets, complex urban thoroughfares and largescale corridors. Whether at a streetscape scale where pedestrian interface is paramount or multi-county corridors where high-speed user experience is a factor, we understand that each roadway project should contribute to the fabric of the local community in a meaningful and positive way.

The approach for a Green Ribbon project is somewhat different than a typical municipal design effort. Although the involvement of key stakeholders is still involved in development of the design, the technical design process and its documentation have very specific and exacting requirements. The approach to these projects includes the creative application of landscape design within a strict set of parameters dictated by the funding source.

“

The creative application of landscape design within a strict set of parameters dictated by funding.

”

Project Experience Green Ribbon



US 75 / SH 121 Green Ribbon

Melissa, TX

Raised \$2M in funding to enhance the interchange. The design included ornamental stone, native grass / plantings and monumental signage as a gateway to the city.



IH-75 & FM 455 Green Ribbon

Anna, TX

Secured 1.25M in TxDOT green ribbon funding to develop median standards for an aesthetic unique to the city. Native plantings support the growing "Pollinator Pathway" initiative for the Monarch butterfly.



I-45 Gateway

League City, TX

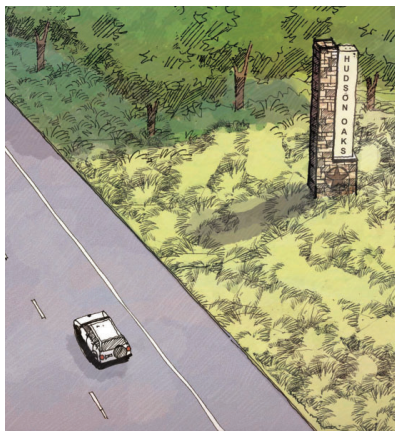
Approx. 12.5 miles in length the design included conceptual envisioning through TxDOT PS&E, including a monument sign and other monumentation elements.



US 69 Expansion

Beaumont, TX

A 12.3 mile corridor passing through the Big Thicket. Includes wayfinding monuments, hike & bike trail, and signature bridge.



IH-20 Corridor Green Ribbon

Hudson Oaks, TX

Secured \$350,000 in TxDOT green ribbon funding for landscape improvements that included an entry monument that establishes a sense of arrival to the city.



FM 156

Justin, TX

Approximately 1 mile in length part of a 4 phase project to enhance the 156 corridor. The project engaged both the City and the County for support. Native and nearnative plants were used to highlight and enhance the edge of the city's downtown district.



**CITY OF NEW FAIRVIEW, TEXAS
RESOLUTION No. 202402-04-116**

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WESTWOOD PROFESSIONAL SERVICES INC FOR CONCEPT LANDSCAPE DESIGN, AND COMPLETION AND SUBMITTAL OF APPLICATION FOR THE 2025 TXDOT GREEN RIBBON GRANT PROGRAM; AND PROVIDE AN EFFECTIVE DATE.

WHEREAS, the City of New Fairview, Texas is a Type A General Law Municipality located in Wise and Denton Counties, Texas, created in accordance with Chapter 6the provisions of the Texas Local Government Code; and

WHEREAS, city staff have been discussing the Governors Community Achievement Award and the Green Ribbon Program with the Keep New Fairview Beautiful Committee; and

WHEREAS, the Texas Department of Transportation (TxDOT) allocates funds through the Green Ribbon Program to local governments within non-attainment and near non-attainment counties to install and establish trees, shrubs, and groundcover on the state highway system to help mitigate the effects of air pollution; and

WHEREAS, the Keep New Fairview Beautiful Committee and city staff have been looking at beautification plans for the southbound frontage road of Hwy 287 at FM 407 bridge, within TxDOT rights-of-way, that would assist with the decrease in littering and illegal dumping; and

WHEREAS, the City Council is interested in working with a consultant for the landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW FAIRVIEW, TEXAS:

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference as part of this Resolution.

SECTION 2. The City Council approves a Professional Services Agreement (Exhibit ‘A’) with Westwood Professional Services Inc. for the landscape design, application completion, and submittal for the 2025 TXDOT Green Ribbon Program.

SECTION 3. The City Council does authorize the City Administrator to direct and work with Westwood Professional Services Inc. to prepare and execute the necessary documents and submittals to successfully submit the 2025 TXDOT Green Ribbon Program application.

SECTION 4. If any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the Council hereby determined that it would have adopted this Resolution without the invalid provision.

SECTION 5. This Resolution shall take effect immediately upon its passage, as provided by law.

PRESENTED AND PASSED on this 19th day of February, 2024, at a Regular meeting of the New Fairview City Council.

JOHN TAYLOR, Mayor

ATTEST:

BROOKE BOLLER, City Secretary

General Conditions of Agreement Westwood Professional Services, Inc.

This document, together with the attached **Scope of Work and Fee Proposal (“Proposal”)** for the **New Fairview FY25 Green Ribbon Application Project** dated **February 14, 2024** (the “Project”), is an agreement (the “Agreement”) between **City of New Fairview (“Client”)**, located at 999 Illinois Lane, New Fairview, Texas 76078 and **Westwood Professional Services, Inc., (“Westwood”)**, located at **4060 Bryant Irvin Road, Fort Worth, Texas 76109**.

1.01 Basic Agreement

Westwood shall provide, or cause to be provided, the services set forth in this Agreement and as described in the accompanying Scope of Services and Compensation exhibits (the “Services”) and shall provide drawings, specifications, plans, work product, and any deliverables as described in this Agreement and the Proposal (the “Deliverables”). Westwood may engage consultants to assist in the performance of the Services.

2.01 Scope of Services

Westwood shall perform the Professional Consultant services (hereinafter referred to as the “Services”) for the Project as set forth in Exhibit “A” (the “Scope of Services”), which is attached and made a part hereof, in accordance with the terms of this Agreement. All designs, drawings, specifications, documents, and other work products of Westwood, whether in hard copy or in electronic form, are Instruments of Service for this Project, whether the Project is completed or not. Reuse, change, or alteration by Client or by others acting through or on behalf of Client of any such Instruments of Service without the written permission of Westwood will be at Client's sole risk.

3.01 Payment Procedures

Westwood shall be compensated by payment of fees as set forth in Exhibit B (the “Compensation and Method of Payment”) which is attached and incorporated herein including any subsequent amendments thereto.

Preparation of Invoices. Westwood will prepare a monthly invoice in accordance with Westwood's standard invoicing practices and submit the invoice to Client.

Payment of Invoices. Invoices are due and payable within thirty (30) days of receipt. If Client fails to make any payment due Westwood for Services and expenses within thirty (30) days after the date of Westwood's invoice, Westwood may, without liability, after giving seven (7) days written notice to Client, suspend Services under this Agreement until Westwood has been paid in full all amounts due for Services, expenses, and other related charges. Westwood has the right to employ such persons or professional service providers on a consultant basis to mitigate its damages.

Client shall provide written notification to Westwood within fifteen (15) days of receipt of the invoice should Client object to all or any part of charges appearing on the invoice. Such written notice shall set forth, at a minimum, the specific portion of the invoice disputed, the amount disputed, and the alleged factual and legal basis for the dispute. The portion of the invoice not in y Client within thirty (30) days receipt of said invoice.

Payment for Services. Client shall pay Westwood as follows:

- A. If the work is agreed to on an hourly basis, an amount equal to the cumulative hours charged to the Project by each of Westwood's employees multiplied by the hourly rates for each employee for all services performed on the Project, plus reimbursable expenses, and Westwood's consultant's charges, if any.
- B. If work is agreed to on a lump sum basis, invoice amounts shall be an amount equal to the percent of each task's completion multiplied by the lump sum of the task, plus reimbursable expenses, and Westwood's consultant's charges, if any.

4.01 Additional Services

If authorized by Client in writing, or if required because of changes in the Project, Westwood may furnish services in addition to those set forth in the Scope of Work and Fee Proposal.

Client shall pay Westwood for such additional services an amount equal to the cumulative hours charged to the Project by each class of Westwood's employees multiplied by the rates for each applicable billing class, plus reimbursable expenses and Westwood's consultants' charges, if any.

5.01 Termination

This Agreement may be terminated for cause:

- A. By either party upon thirty (30) days written notice in the event of failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of a failure to perform in accordance with the Agreement if the party receiving a notice of failure to perform begins within seven (7) days of receipt of such notice to correct its failure and proceeds diligently to cure such failure within thirty (30) days of receipt of notice; provided, however, that if and to the extent such failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
- B. By Westwood:
 - 1) Upon seven (7) days written notice if Westwood believes that Westwood is being requested by Client to furnish or perform services contrary to Westwood's responsibilities as a licensed professional; or

- 2) Upon seven (7) days written notice if Westwood's Services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond Westwood's control.

Westwood shall have no liability to Client as a result of such termination in this paragraph.

The terminating party under paragraphs 5.01.A or 5.01.B, may set the effective date of termination at a time up to thirty (30) days later than otherwise provided to allow Westwood to demobilize personnel and equipment from the Project site to complete tasks providing value which would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Westwood shall be compensated for the time required to complete such tasks.

6.01 Successors, Assigns, and Beneficiaries

Client and Westwood are each hereby bound, and the partners, successors, executors, administrators, and legal representatives of Client and Westwood are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither Client nor Westwood may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or required by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 General Considerations

- A. The standard of care for all professional consulting and related services performed or furnished by Westwood under this Agreement will be the care and skill ordinarily used by members of Westwood's profession practicing under similar circumstances at the same time and in the same locality. Except as expressly set forth in Paragraph 6.01B, Westwood makes no warranties, express or implied, under this Agreement or otherwise, in connection with Westwood's Services and Deliverables. Westwood and its consultants may use or rely upon the design services of Client and others, including, but not limited to, contractors, manufacturers, and suppliers.
- B. If Client notifies Westwood of a deficiency, or if Westwood determines there is a deficiency, within sixty (60) days after delivery of a Deliverable to Client, as Client's sole and exclusive remedy, Westwood shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Client-furnished information.

- C. Client shall be responsible for, and Westwood may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Client to Westwood pursuant to this Agreement. Westwood may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
- D. Westwood neither guarantees the performance of any third party, including contractors, using the Deliverables or Services nor assumes responsibility for any third party's failure to furnish and perform any work that uses the Deliverables or Services.
- E. Westwood shall not be responsible for the acts or omissions of any contractor(s), subcontractor(s) or supplier(s), or of any of the contractor's agents or employees or any other persons (except Westwood's own employees) furnishing or performing any of the contractor's work; or for any decision made on interpretations or clarifications of Deliverables without consultation and advice of Westwood.
- F. It is understood and agreed that if Westwood's services under this Agreement do not include construction phase services, and that such services will be provided by Client, then Client assumes all responsibility for interpretation of Deliverables and for construction observation or review and waives any claims against Westwood that may be in any way connected thereto.
- G. Westwood shall be the owner of all right, title, and interest in and to any and all Deliverables, together with any and all related rights of copyright, patent, trade secret, trademark and service mark, and all other proprietary rights of any kind whatsoever. Subject to the provisions herein and upon Westwood's receipt of full payment therefore, Westwood hereby grants to Client, and Client accepts: (i) a nonexclusive, nontransferable, without the right to sublicense, royalty-free license to use the Deliverables for the sole purpose of constructing the Project; and (ii) the right to reproduce applicable portions of the Deliverables for Client's contractors, consultants, and suppliers solely for use in construction of the Project, provided Client reproduces on such copies the copyright notice and other proprietary legends that were on the original Deliverable. Deliverables are not intended or represented to be suitable and are not licensed to Client for reuse by Client or others on extensions of the Project or on any other project. Upon termination of this Agreement by Westwood pursuant to paragraph 4.01, the license granted herein shall terminate. Any unauthorized use of the Deliverables will be at Client's sole risk and without liability to Westwood or to Westwood's consultants.
- H. This Agreement is to be governed by the laws of the State in which the Project is located.
- I. All express indemnifications or limitations of liability included in this Agreement will survive its completion or termination for any reason.
- J. Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon Client and Westwood.

- K. Nothing contained herein shall be construed to mean that Westwood and Client are engaging in a joint venture or partnership.
- L. Westwood shall maintain insurances during the term of this Agreement as indicated in the attached **Exhibit C** to this Agreement.
- M. If either party hereto shall commence any action or proceeding against the other in connection with the terms, conditions, or obligations under this Agreement, the prevailing party shall be entitled to recovery of its reasonable attorney's fees and costs incurred herein.
- N. In the event the terms of these General Conditions conflict with the Proposal or other contract documents, these General Conditions shall control.

8.01 Hazardous Environmental Conditions

The parties acknowledge this Agreement does not include any services related to a Hazardous Environmental Condition. Such conditions include, but are not limited to the presence of asbestos, PCB's, petroleum, hazardous substances or waste, and radioactive materials. If Westwood or any other party encounters a Hazardous Environmental Condition, Westwood may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until Client: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the site is in full compliance with applicable Laws and Regulations.

9.01 Allocation of Risks

- A. To the fullest extent permitted by law, Westwood shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and reasonable charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent caused in whole or in part by the negligent acts or omissions, intentional tort or failure to pay a subconsultant of Westwood or Westwood's officers, directors, partners, employees, and Westwood's consultants in the performance and furnishing of Westwood's services under this Agreement.
- B. To the fullest extent permitted by the laws of the State of Texas, Client shall indemnify and hold harmless Westwood, Westwood's officers, directors, partners, employees, and Westwood's consultants from and against any and all claims, demands, costs, losses, and damages (including but not limited to all fees and charges of consultants, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) and liabilities that Westwood may incur or suffer which arise out of or relate to: (i) the negligent acts or omissions of Client or Client's officers, directors, partners, employees, and Client's consultants with respect to this Agreement or the Project; and

- (ii) Client's breach of or failure to perform any of its obligations of this Agreement or a Proposal.
- C. To the fullest extent permitted by laws of the State of Texas, and to the extent a claimant is not otherwise barred from recovery, Westwood's total liability to Client and anyone claiming by, through, or under Client for any cost, loss, or damages shall not exceed Westwood's respective percentage of responsibility for such cost, loss, or damage. Westwood shall not be liable for any incidental, consequential, indirect, or punitive damages arising out of this Agreement or Westwood's provision of the Services or the Deliverables, even if Westwood has been advised of the possibilities of such damages. In no event shall Westwood's total liability in connection with this Agreement exceed the amounts paid by Client to Westwood under this Agreement.

10.1 Force Majeure

An event of "Force Majeure" occurs when an event beyond the control of the Party claiming Force Majeure prevents such Party from fulfilling its obligations. An event of Force Majeure includes, without limitation, floods, hurricanes and other adverse weather, war, riot, civil disorder, acts of terrorism, disease, epidemic, strikes and labor disputes, actions or inactions of government or other authorities, law enforcement actions, curfews, closure of transportation systems or other unusual travel difficulties, or inability to provide a safe working environment for employees.

In the event of Force Majeure, the obligations of Westwood to perform Services shall be suspended for the duration of the event of Force Majeure. In such event, Westwood shall be compensated for time expended and expenses incurred during the event of Force Majeure and the schedule shall be extended by a like number of days as the event of Force Majeure. If Services are suspended for thirty (30) days or more, Westwood may, in its sole discretion, upon five (5) days prior written notice, terminate this Agreement or the affected Work Order, or both. In the case of such termination, in addition to the compensation and time extension set forth above, Westwood shall be compensated for all reasonable termination expenses.

11.01 Coronavirus Pandemic Impact

Client acknowledges and agrees that due to the dynamic and fluid nature of the coronavirus pandemic (COVID-19) (the "Coronavirus Pandemic"), Westwood may face uncertainty regarding its ability to perform the work contemplated by the Agreement in accordance with the schedule and contracted price. As a result of the Coronavirus Pandemic, the schedule, and related scope and fee, provided in the Agreement may be impacted due to issues outside of Westwood's control including, but not limited to, the following: (a) shortages in labor (including employees and consultants); (b) direction or guidance from any applicable governmental authority or applicable law that renders Westwood's or its subconsultants' performance impossible, impracticable, or contrary to such direction or guidance; (c) delays in governmental approvals; and (d) other causes beyond Westwood's reasonable control, regardless of whether such impacts are direct or indirect.

If due to the impacts of the Coronavirus Pandemic, Westwood determines in good faith and in Westwood's sole discretion, that it is not feasible for Westwood or its subconsultants to perform the work in accordance with the schedule Westwood shall promptly notify Client and the parties shall cooperate in good faith to negotiate equitable adjustments to the schedule and/or contract price. Notwithstanding anything to the contrary set forth in this Agreement, including any related work or change order, Westwood shall not be liable to Client for any damages (actual, direct, consequential, incidental, punitive, liquidated, or nominal) as a result of delays or cost adjustments in connection with the Coronavirus Pandemic.

12.01 Right of Entry

To the extent securing a right of entry is not part of the Services, Client grants to Westwood, and, if the Project site is not owned by Client, warrants that permission has been granted for, a right of entry from time to time by Westwood, its employees, agents and subcontractors, upon the Project site for the purpose of providing the Services. Client recognizes that the use of investigative equipment and practices may unavoidably alter the existing site conditions and affect the environment in the area being studied, despite the use of reasonable care. Client shall indemnify and hold Westwood harmless from claims for damages caused in part by reasons of Westwood's provision of Services.

13.01 No Third-Party Rights

This Agreement shall not create any rights or benefits to parties other than Client and Westwood. No third party shall have the right to rely on Westwood's Deliverables or opinions rendered in connection with the Services without the written consent of Westwood and the third party's agreement to be bound to the same conditions and limitations as Client.

14.01 Total Agreement

This Agreement, together with any attached documents, constitutes the entire Agreement between Client and Westwood and supersedes all prior written or oral understandings regarding this subject. This Agreement may only be amended, supplemented, or modified by a mutually executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective on the latest date indicated below.

CLIENT:
City of New Fairview

WESTWOOD:
Westwood Professional Services, Inc.

By: _____

By:

Name: _____
(PRINT/TYPE)

Name:
(PRINT/TYPE)

Title: _

Title:

Date Signed: _

Date Signed:

Address/Contact for giving notices:

Address/Contact for giving notices:

Westwood Professional Services, Inc.
C/O General Counsel
12701 Whitewater Drive, Suite 300
Minnetonka, Minnesota 55343

- Exhibits: A Scope of Services
 B Compensation & Method of
 Payment
 C Insurance

EXHIBIT A SCOPE OF SERVICES

NEW FAIRVIEW FY25 GREEN RIBBON APPLICATION

PROJECT DESCRIPTION:

The project consists of completing one (1) FY25 Green Ribbon Program Application form, including the following required attachments: preliminary project schedule, location map and schematic plan. The Landscape Architect will work with the Client to determine the limits of the schematic plan based on an assumed award of \$400,000, towards construction, at the location predetermined by the Client. (PROJECT).

BASIC SERVICES:

Landscape Architecture Assumptions & Exclusions

Below are shown the assumptions and qualifiers for the landscape architecture scope of work found herein.

Assumptions:

- Project Location will be within the TxDOT ROW and provided by the Client.
- Project budget is \$400,000 for the construction of planting and irrigation improvements.
- This proposal is for the Green Ribbon Application only.

Exclusions:

- Site Survey. A scaled Google Earth image will be used for the schematic plan.
- Multiple design alternatives beyond those described herein, or significant site plan revisions following acceptance at each given phase of review documents.
- Water feature design.
- Hardscape, Planting or Irrigation Construction Plans.
- Site signage and/or signs for buildings and vehicular circulation.
- Site and/or ornamental lighting.
- LEED pursuit.

A. Basic Green Ribbon Program Application

Westwood will provide professional Landscape Architecture services that include one (1) FY25 Green Ribbon Program Application, including the required attachments.

Attachments include, a project location map, preliminary project schedule, schematic plan and opinion of probable costs. Westwood will develop one (1) schematic plan and incorporate one (1) round of Client comments prior to submission. It is understood that Westwood and the Client will need to work together to generate and/or collect the necessary documentation for the application as Westwood cannot complete the application independently.

1. Included in this item:

- One (1) opinion of probable costs
- One (1) preliminary project schedule
- One (1) project location map
- One (1) schematic plan rendering
- Image files intended to be 11x17" output for print media.
- Coordination with City.
- One (1) in person and two (2) additional virtual meetings with city staff for roundtable comments.

2. Not included in this item:

- Renderings considered for construction documentation.
- Photorealistic images produced from a model.
- Official City boundary and ROW determination.

END OF EXHIBIT 'A'

EXHIBIT B COMPENSATION & METHOD OF PAYMENT

NEW FAIRVIEW FY25 GREEN RIBBON APPLICATION

COMPENSATION:

For all professional services included in EXHIBIT 'A', Scope of Services, Westwood shall be compensated a lump sum fee of \$6,800.00 as summarized below. The total lump sum fee shall be considered full compensation for the services described in EXHIBIT 'A', including all labor materials, supplies, and equipment necessary to deliver the services.

Basic Green Ribbon Application

A. Basic Conceptual Plan(s) and Grant Application(s)	\$6,800.00
TOTAL	\$6,800.00

METHOD OF PAYMENT:

Westwood shall be paid monthly payments as described in Article 3 of the AGREEMENT. The cumulative sum of such monthly partial fee payments shall not exceed the total current project budget including all approved Amendments. Each invoice shall be verified as to its accuracy and compliance with the terms of this Agreement by an officer of Westwood.

Monthly statements for reimbursable services performed by sub consultants will be based upon the actual cost to Westwood plus ten percent (10%). Direct expenses for services such as printing, express mail, fees, mileage, and other direct expenses that are incurred during the progress of the project will be billed at 1.1 times Westwood's cost.

END OF EXHIBIT 'B'

EXHIBIT C – INSURANCE

A. *Insurance.* Westwood shall, during the life of this Agreement, maintain the following insurances:

1. Commercial General Liability (occurrence form not less than):
 - \$2,000,000 General Liability
 - \$2,000,000 Products and Completed Operations Aggregate
 - \$1,000,000 Personal and Advertising Injury
 - \$1,000,000 Each Occurrence
 - \$10,000 Medical Expense

2. Commercial Automobile Liability (all scheduled auto, hired and non-owned autos):
 - \$1,000,000 Combined Single Limit

3. Umbrella
 - \$5,000,000 Aggregate
 - \$5,000,000 Each Occurrence

4. Workers Compensation
 - \$1,000,000 Each Accident
 - \$1,000,000 Policy Limit
 - \$1,000,000 Each Employee

Professional Liability Errors and Omissions Insurance. Westwood shall carry Professional Liability Errors and Omissions insurance with limited contractual liability in the amount of \$2,000,000 per claim and in the aggregate for the duration of this Agreement.

END OF EXHIBIT 'C'